



“The City With a Heart”

Larry Franzella, Mayor
Jim Ruane, Vice Mayor
Ken Ibarra, Councilmember
Irene O’Connell, Councilmember
Chris Pallas, Councilmember

MINUTES

CITY COUNCIL

REGULAR MEETING

February 22, 2005

THIS IS TO CERTIFY THAT:

The San Bruno City Council met in regular session on February 22, 2005 at 1555 Crystal Springs Road (Senior Center) and the meeting was called to order at 7:00 p.m.

Mayor Franzella thanked the **San Bruno Garden Club** for providing the beautiful floral arrangement.

- 1. ROLL CALL:** Mayor Franzella was presiding with Vice Mayor Ruane, Councilmembers Ibarra, O’Connell, and Pallas in attendance. Recorded by City Clerk Simon.

PLEDGE OF ALLEGIANCE: Led by Finance Director O’Leary.

ANNOUNCEMENTS:

Redevelopment Agency meeting follows tonight’s City Council Meeting.

PRESENTATIONS:

- a. Mayor Franzella** read and presented proclamation to Mario Puccinelli, President of the Rotary Club of San Bruno, in recognition of the **100th Anniversary** of Rotary International.

Mr. Puccinelli, on behalf of the members of the San Bruno Rotary Club, thanked the Mayor and Council for this recognition.

Councilmember Pallas said the San Bruno Rotary Club was also involved in the formation of the Sister City relationship with Narita, Japan.

- b. Peninsula Corridor Joint Powers Board (JPB)** staff presented a project status report for the Caltrain **San Bruno Grade Separation and Station Design Project.**

Ian McAvoy, Chief Development Officer from the JPB, said the main reason for this project is Safety! The South Linden Avenue Grade separation has been included with San Bruno’s San Mateo Avenue, San Bruno Avenue, and Angus Avenue. There has been a proposed change in scope and the JPB is now recommending reducing from 4 main tracts on 70’ wide embankment and bridges to 2 main tracks on 38’ wide embankment and bridges. This change will reduce visual impact of embankment along First Avenue, provide more parking, and reduce overall mass of the structure. Caltrain will establish 4 tracks in the middle of the system somewhere near San Mateo. Even though there is no current need for 4 tracks, there may be high-speed rail in 10 to 15 years and all construction work will be done now, such as pilings, to accommodate a 4-track structure in the future. The cost estimates have increased; however, all funds will be non-City funds to complete this project.

Vice Mayor Ruane as co-chair of the Citizens Advisory Committee said it has been a good experience working with the staff of the JPB and it is their project not the City of San Bruno. Will the JPB commit to

a number of years our City will have just 2 tracks before the need to expand to 4? Will we have the landscaping and other improvements the City is hoping to achieve?

Mr. McAvoy replied there was no way to determine if a bond to fund high-speed rail would be approved by the voters. For the foreseeable future there is no need for 4 tracks through San Bruno. The market is just for the a.m. and p.m. commuters and if high-speed rail does happen, it would not be before year 2015. The JPB is working with the City to improve the esthetics along the corridor.

Councilmember Pallas asked if this improvement would accommodate the freight trains currently using this line? How fast do the high-speed trains go through San Bruno? Will any business that suffers damage or reduction of profit due to this project, be reimbursed for their loss? Is the cost still around \$93 million? Mr. McAvoy replied that while freight trains have diminished, there are still 3 to 4 per day by Union Pacific and this would continue until high-speed rail forced the construction of 4 tracks. The high-speed trains run to up a maximum of 79 miles per hour, which is a Federal restriction. 90 miles per hour could be reached after many improvements were made to the line. This is an urban area and a commuter railroad and this will dictate the speed. There is no taking of residents, businesses, or land on this project. With this project now taking in the area north of Linden Avenue in South San Francisco, the new estimate cost are between 135 and 145 million dollars. Councilmember Pallas said this project is a waste of money.

Councilmember Ibarra said he is the other co-chair of the Citizens Advisory Committee. San Bruno's project cost did not increase by \$50 million. The length of the project has been increased by the addition of South San Francisco Linden Avenue grade separation. He thanked Mr. McAvoy and his staff for the cooperative efforts he and the Citizens Advisory Committee have enjoyed. He asked Mr. McAvoy to explain why it was originally thought necessary to build a 4-track system through San Bruno? Mr. McAvoy said we are not like BART, we can move around trains. San Bruno was originally in the 4-track area but now there is no need to put the 4-track section in San Bruno.

Councilmember O'Connell asked if the Belmont/San Carlos grade separation included structures for a 4-track system and how could the cost estimates be similar if they did not. Mr. McAvoy said Belmont/San Carlos is about the same length and is only a 2-track system the same as San Bruno/South San Francisco is now being planned for. The cost estimate would go to \$200 million if we use a 4-track system in San Bruno/South San Francisco.

Councilmember O'Connell said San Bruno was told because we have curves on the train tracks we could not accommodate the high speeds without grade separations.

Mr. McAvoy said speed is not the problem. The trains cannot see the cars or a pedestrian crossing as they come around a curve and this creates the safety problem and the grade separation will fix this. The trains can maintain top speed safely even around the curves.

Councilmember Pallas said he has heard that elevated trains cause more noise than those traveling at ground level and is this true?

Mr. McAvoy said he was not prepared to answer this question and would have to provide this information later.

Councilmember Ibarra asked how this change in scope from a 4-track to a 2-track system would affect all the work the City staff and Citizens Advisory Committee has done thus far.

Mr. McAvoy said the decision was well thought out and will help reduce negative impacts on the San Bruno Community. His staff will continue to work with the San Bruno Staff and Citizens Advisory Committee.

Mayor Franzella thanked Mr. McAvoy for the time he has given the Council tonight and confirmed this information would be provided to the Citizens Advisory Committee at their next meeting.

2. REVIEW OF AGENDA: No changes were made.

3. APPROVAL OF MINUTES: The regular City Council meeting minutes of February 8, 2005 were approved as submitted.

4. CONSENT CALENDAR: All items listed are considered routine or implement an earlier Council action and may be enacted by one motion; there will be no separate discussion unless requested by Councilmember, citizen or staff.

a. Approve: Payroll of February 11, 2005.

b. Approve: Accounts Payable of January 31, 2005. (Council Packets Only, copy is available for review at the City Clerk's office.)

c. Accept: Reconciliation of General Ledger to bank reports and the **Investment** reports dated January 31, 2005, by City Treasurer Karen Hornung.

d. Adopt: Waive second reading and adopt Ordinance No. 1699, an ordinance of the City of San Bruno, adding new Chapter 6.14 **Juvenile Daytime Curfew** to Title 6 (Public Peace, Morals and Welfare) of the San Bruno Municipal Code.

e. Accept: Certificate of City Clerk, certifying appointment of the **Senior Citizens Advisory Board** members at its February 15, 2005, board meeting. The February 2, 2005, election was canceled since at the close of the nomination period, **Bill Goff** and **Dorothy Carmichael**, were the only candidates for the two seats.

f. Approve: Out of country travel to Tonga for Police Corporal to attend cultural sensitivity experience in Tonga March 10 through March 17, 2005.

Mayor Franzella pulled item number f. for discussion.

M/S Ruane/Ibarra to approve the remainder of items and passed with a unanimous vote.

Mayor Franzella asked Police Chief Violet to give a report on item number f.

Chief Violet presented the staff report and indicated there has been an increased in violence among young members of the Tongan community. Law enforcement needs to have a better understanding of the Tongan culture. Many community groups and businesses have offered to offset the cost of sending an officer to Tonga for a cultural sensitivity experience. The March 8, 2005, City Council agenda will include a list of the groups making donations.

Councilmember Pallas asked Chief Violet if we have the local Tongan leaders involved with this problem? Chief Violet replied monthly meetings are being held with local leaders and we have good representation.

M/S Franzella/Ruane to approve item f. and passed with a unanimous vote.

5. PUBLIC HEARINGS: (Notices have been published, posted, and mailed.) **None**

6. UNFINISHED BUSINESS:

- a. Receive report and review draft Fireworks Ordinance** repealing Section 11.24.060 of the San Bruno Municipal Code and adding new Chapter 6.50 Pertaining to the Sale, Use, and Discharge of "Safe and Sane" Fireworks. Approve public education, enforcement, and cost recovery plans for the July 4, 2005, Holiday event.

Fire Chief Voreyer gave an update on activities since the January 25, 2005, Council Meeting. A meeting was held on Feb. 9, 2005 at City Hall with all fireworks stand permit holders, non-profit community organizations, and the Fireworks vendors to review the public education plan. It was recommended we include both Capuchino and Peninsula High schools in our outreach efforts. The Fireworks industry will provide “public service announcements” for use on CATV channel 11. The total cost for the education plan will increase from \$11,500 to \$13,000 because of the addition of the two high schools and visits by police officers to known problem areas. By working with the fireworks industry and not duplicating cost, there will be a savings of \$7300, which will bring down the total cost of the public educational plan to \$5700. The Fire Department operational plan will cost \$20,872.

Councilmember Ibarra asked if we were including private schools like Saint Roberts and Church of the Highlands? Chief Voreyer replied yes. Councilmember Ibarra asked if there was good participation during the public meeting and are these meetings going to be mandatory in the future? Chief Voreyer replied that there was very good participation at the last public meeting and the plans are to have a mandatory “safety seminar” for all fireworks booth permit holders.

Councilmember Pallas said while last year was the worst year with the use of illegal fireworks there were still no serious problems so why do we need to educate the public?

Chief Voreyer replied there were two injuries from illegal fireworks last year and it is his responsibility to advise the Council that this community was not safe and only lucky there were not more injuries and fires. We must enforce the zero tolerance policy on the use of illegal fireworks.

Police Chief Violet gave an update on the status of the enforcement plan. The staffing levels for the week leading up to the weekend of July 4th have been scaled back and a heavier deployment on the weekend. As a result of the changes, the cost will be reduced from \$44,968 to \$34,652.

Vice Mayor Ruane said his position is well known on this issue. If it were only the “safe and sane” fireworks it probably would not be a problem. He will support the ordinance since it will add needed protection through fines and increased security since we will have fireworks at least one more year. He would ask the Council to consider changing the time allowed on the 4th of July to 10 p.m. and there is no reason to go to midnight.

Councilmember O’Connell said any fines collected should go back to the education and enforcement program.

Councilmember Ibarra said the ordinance prohibits the use of public streets and right of ways to light these fireworks and wanted to know the Chief of Police’s opinion on this restriction and are we going to enforce this provision this year?

Chief Violet replied yes, it has never been legal for pedestrians to use the middle of the streets. Should a pedestrian be run down it would create a tremendous liability for the City. Councilmember Ibarra said this should be part of the educational program to inform the public.

Councilmember Pallas said the ordinance said the use of fireworks has risen to an unacceptable level; however, the use of “safe and sane” has not increased. The increase was only with illegal fireworks and still our community remained safe.

Fire Chief Voreyer said the use of fireworks in the streets last year blocked access by emergency vehicles and the smoke it created made it difficult to see and slowed our response time.

Councilmember Pallas told the proverb about the Greek farmer who wanted to buy a horse and wagon and build a barn to store them. He became aware lightning could strike the barn and destroy the wagon and horse so he decided not to do anything.

Mayor Franzella said we are bringing forth an ordinance at the next meeting for the first reading. When this ordinance goes to the voter in November the preamble should state, “The City of San Bruno shall allow the use of “Safe and Sane” Fireworks. The voters do not need to vote on all the details such as the hours of sales.

Councilmember O’Connell said she agrees it needs to be a very clear statement and in November we only need to ask the voters if they wish to continue the sale of “safe and sane” fireworks.

City Attorney Thompson said everything else is incorporated in the resolution regulating fireworks booth permits and safety issues.

Councilmember O’Connell said she would not want people to vote no on the ordinance because they do not want fireworks sales to start at 8:00 a.m. but would be satisfied if they started at noon. Those decisions could be made and changed by the Council serving at that time.

Councilmember Pallas said keep it simple, do you want the sale of “safe and sane” fireworks, yes or no.

Mayor Franzella said the cost recovery plans for enforcement and education need approval. We need to have a starting time when the booths can open for business after noon on June 28th. Should any fines collected be applied toward the enforcement program? Should we stop selling fireworks at 10 p.m. or at midnight July 4, 2005?

Councilmember Pallas said you would make criminals out of all our citizens if you do not allow use of fireworks on July 4, 2005 to go until midnight. Most citizens don’t start celebrating until after 9:00 p.m.

Vice Mayor Ruane said this is a work night and he feels 10:00 p.m. is adequate.

Mayor Franzella said we need action on the \$61,000 cost for the public education and enforcement plans.

City Manager Jackson said the cost is \$72,000, which includes clean-up cost after the event.

Staff is recommending each seller would pay a permit fee of \$750.00, the remaining cost above that amount would be recovered based upon a percent of total gross sales as in past years.

Councilmember Pallas said we are discriminating against fireworks vendors. We don’t charge liquor stores extra to cover the New Year’s Event and should not charge fireworks booth permit holders for the July 4th Event.

Dennis Revel, on behalf of American Promotional Events, said he had met with Police, Fire, non-profit groups, and City Manager Jackson regarding these cost. He proposes keeping the current cost recovery system in place and the groups will deal with the increase cost internally just like the Cities of Union City and Pacifica. They will be imposing a retail base surcharge of 8% on each individual sale, which will amount to \$62 or \$63 thousand dollars. He expects some reduction in sales due to construction at Tanforan Shopping Center. He said the fireworks industry proposed the language in the ordinance about not using City streets but would recommend allowing applications for block parties. Section 6.50.030, stocking of fireworks booth containers, is now limited to 24 hours; however, the standard practice is 72 hours before the event starts.

Councilmember Ibarra asked if a booth operator could sell fireworks for any dollar amount they desire?

Mayor Franzella also asked if the wholesaler places any restrictions on the permit holders as to what price their product could be sold for?

Kathy Castle, Vice President of Red Devil Fireworks, replied there is a suggested retail price and booths are encouraged not to discount the items. If you raise the price too much you will lose business to other Cities.

Mike Kaiser representing Boosters 72, said the overwhelming discharge of illegal fireworks is causing the problems not the safe and sane. We pay \$750 to operate the booth, which takes care of the expense of cleaning up. San Bruno's non-profit organizations are being punished. Do you want the groups to come to the Council in June for a hand out?

Bob George representing the Rotary Club of San Bruno said the possibility of a surcharge to cover the cost of education and enforcement is "doable". Customers will pay the additional fee because it is necessary to deal with this activity. This is a very workable concept.

Steve Pieraldi of Santa Lucia Avenue said it is a confusing process. If you approve this ordinance, will this allow the sale of safe and sane fireworks this year? If the voters approve the sale of safe and sane fireworks this November, how long would they continue? He wants the Council to make it a simple yes or no vote. The Council should retain the flexibility to change the rules and regulations if needed.

Mayor Franzella replied there would be safe and sane fireworks sales this July and if the voters approved the ordinance in November it would stay in effect until the voters themselves changed it.

Councilmember Pallas said page 9 of the draft reads no generator can be allowed within 50 feet from the fireworks stand. Most lots are not even 50 feet wide. 25 feet is more than enough for safety. Cars parking in a garage are within 10 feet of gas water heaters and this is just too strict. Fire Chief Voreyer said we have not received any complaints in the past and this is not a new requirement.

M/S Ibarra/Ruane to approve the recommendation from the staff for cost recovery of the educational and enforcement and clean-up plans. Passed by unanimous vote.

Mayor Franzella asked for concurrence to change the draft ordinance to read 72 hours for stocking the booths prior to the event from 24 hours. Fire Chief Voreyer said 72 hours was acceptable this year and may need to be changed depending upon what day the 4th falls on. The Council gave their concurrence to change this item in the ordinance to 72 hours.

Councilmember O'Connell said fines should go to offset the cost of the programs. The net proceeds of fines, even if collected after the fireworks year it was issued, should go toward the cost of the programs.

Councilmember Ibarra asked about money recovered from the use of illegal fireworks and the City Attorney replied the City would not receive fines from illegal fireworks.

M/S O'Connell/Ibarra to have net fines from "safe and sane" fireworks credited to cost of the educational and enforcement program. Passed with unanimous vote.

At 9:05 p.m. Mayor Franzella called for a 10-minute recess in order to change the Video Tape.

At 9:15 p.m. Mayor Franzella reconvened the meeting.

Mayor Franzella moved up item 12. a.

Chair Petersen gave the annual report to the Council and covered all activities for 2004. A written report was given to the Mayor, Council, and City Clerk. Mr. Petersen reviewed the goals of the Planning Commission for 2005.

Councilmember O’Connell asked why the number of sign permits has double over last year and Mr. Petersen replied that code enforcement has helped increase this number.

Councilmember Ibarra said Chair Petersen and the Planning Commission should be complimented for being one the best commissions we have had. They are fair, and very knowledgeable. Residential use permits are on the rise and thanks for doing such a great job.

- b. Adopt resolution authorizing the City Manager/Executive Director to execute a **Letter of Intent** with Martin Regis to specify the terms and conditions for development of various agreements related to the Phase 2 Paragon Apartments and the proposed El Camino Real commercial project at the Crossing.

Councilmember Ibarra said he would abstain from this item because he has an interest with a property owner near the project and exited the room.

Councilmember Pallas asked if we would lose, gain, or break even on the development activities at the Crossing? What will happen the first year, not 15 years out?

City Manager Jackson said the financial details would be covered during the Redevelopment Agency meeting following tonight’s City Council meeting. City Manager Jackson said a short answer is, there would be a substantial net revenue gain to the Agency over time. The short term of 2005-2006 would show tax increment being less than the amount committed to the project.

Councilmember Pallas asked if the State took our funds what would happen? The report shows we will generate \$2 million in taxes but only spend \$700,000, what will happen to the difference?

City Manager Jackson replied that 43% must go the other taxing entities such as the schools. After the pass through is made we must set aside another 20% for housing. The remaining will go to operational expenses. There is no guarantee the State of California may take funds from us again; however, we would do everything possible to prevent this.

Vice Mayor Ruane introduced the resolution for adoption with a roll call vote of Ayes, Franzella, Ruane, O’Connell, and Pallas with Ibarra abstaining. (Councilmember Ibarra returned to his seat.)

7. CALL FOR, PRESENTATION OF BIDS, and AWARD OF CONTRACT. None

8. COMMUNICATIONS: None

9. STAFF REPORTS: None

10. REPORT OF CITY ATTORNEY - RESOLUTIONS & ORDINANCES: None

11. PUBLIC COMMENT ON ITEMS NOT ON AGENDA:

Robert Riechel of 7th Avenue complimented the staff and Council for the JPB/Caltrain presentation on the San Bruno Grade Separation. He has a better feel now and would like to see more of these presentations in the future.

Jeremy Blank an attorney representing the Crossroads Bar requested the City Council allow the owner, employees, and patrons to give a presentation to the Council on the importance of this business during the Council meeting of March 8, 2005. Mayor Franzella replied this is only a public discussion item.

12. REPORT OF COMMISSIONS, BOARDS, & COMMITTEES:

a. Chair Petersen presents the **Planning Commission's annual oral report** to the City Council.
(Report was given earlier on the agenda)

b. **Caltrain Council Ad Hoc Committee (Ruane/Ibarra)** announces the Citizens Advisory Committee for Caltrain Preferred Grade Separation and Station Design will hold its next meeting on Thursday February 24, 2005 at 6:00 p.m. at City Hall 567 El Camino Real in the Sister City Conference Room number 115. The public is invited to attend.

Co-Chair Vice Mayor Ruane said our discussion will be on Urban Designs and all are welcomed to attend.

Co-Chair Councilmember Ibarra said the meeting is at City Hall this time not Belle Air School.

13. NEW BUSINESS: None

14. ADJOURNMENT:

Meeting adjourned to the next regular City Council meeting of Tuesday March 8, 2005, 7:00 p.m. at the Senior Center, at 1555 Crystal Springs Road. Mayor Franzella called the Redevelopment Agency meeting to order at approximately 9:30 p.m.

**Respectfully submitted for approval
at the regular City Council meeting
of March 8, 2005**

Ed Simon, City Clerk

Larry Franzella, Mayor